



DEPARTMENT OF THE INTERIOR

Fish and Wildlife Service

50 CFR Part 17

[Docket No. FWS–R2–ES–2012–0071; 4500030113]

RIN 1018–AY21

Endangered and Threatened Wildlife and Plants; Listing the Lesser Prairie-Chicken as a Threatened Species With a Special Rule

AGENCY: Fish and Wildlife Service, Interior.

ACTION: Proposed rule; reopening of comment period.

SUMMARY: We, the U.S. Fish and Wildlife Service, announce the reopening of the comment period on the December 11, 2013, proposed revised special rule under authority of section 4(d) of the Endangered Species Act of 1973, as amended (Act), that provides measures that are necessary and advisable to provide for the conservation of the lesser prairie-chicken (*Tympanuchus pallidicinctus*). In addition, we announce the reopening of

the public comment period on the December 11, 2012, proposed rule to list the lesser prairie-chicken as a threatened species under the Act. We are reopening the comment period to allow all interested parties an opportunity to comment on the final Lesser Prairie-Chicken Range-Wide Conservation Plan, which has been prepared by the Lesser Prairie-Chicken Interstate Working Group, and our endorsement of the plan, and we request comments on the plan as it relates to our determination of status under section 4(a)(1) of the Act. The final plan is available on the Internet in Docket No. FWS–R2–ES–2012–0071 at <http://www.regulations.gov>.

DATES: The comment period for the proposed rule published December 11, 2012 (77 FR 73827), is reopened. We will accept comments received or postmarked on or before **[INSERT DATE 14 DAYS AFTER DATE OF PUBLICATION IN THE FEDERAL REGISTER]**. Comments submitted electronically using the Federal eRulemaking Portal (see **ADDRESSES**, below) must be received by 11:59 p.m. Eastern Time on the closing date.

ADDRESSES: *Document availability:* The December 11, 2012, proposed rule (77 FR 73827), the December 11, 2013, revision of that proposed rule (78 FR 75306), and the final Lesser Prairie-Chicken Range-Wide Conservation Plan are all available via the Federal electronic rulemaking portal at <http://www.regulations.gov> in Docket No. FWS–R2–ES–2012–0071.

Comment submission: You may submit comments by one of the following methods:

(1) *Electronically*: Go to the Federal eRulemaking Portal:

<http://www.regulations.gov>. In the Search box, enter FWS–R2–ES–2012–0071, which is the docket number for this rulemaking. You may submit a comment by clicking on “Comment Now!”

(2) *By hard copy*: Submit by U.S. mail or hand-delivery to: Public Comments Processing, Attn: FWS–R2–ES–2012–0071; Division of Policy and Directives Management; U.S. Fish and Wildlife Service; 4401 N. Fairfax Drive, MS 2042–PDM; Arlington, VA 22203.

We request that you send comments **only** by one of the methods described above. We will post all comments on <http://www.regulations.gov>. This generally means that we will post any personal information you provide us (see the **Public Comments** section below for more information).

FOR FURTHER INFORMATION CONTACT: Jontie Aldrich, Field Supervisor, Oklahoma Ecological Services Field Office, 9014 East 21st Street, Tulsa, OK 74129; by telephone 918–581–7458 or by facsimile 918–581–7467. Persons who use a telecommunications device for the deaf (TDD) may call the Federal Information Relay Service (FIRS) at 800–877–8339.

SUPPLEMENTARY INFORMATION:

Public Comments

To allow the public to comment simultaneously on this revised proposed 4(d) special rule and the proposed listing rule, we also announce the reopening of the comment period on the Service's December 11, 2012, proposed rule to list the lesser prairie-chicken as a threatened species under the Act. We intend to finalize the revised proposed 4(d) special rule concurrent with the final listing rule, if the results of our final listing determination conclude that threatened species status is appropriate and if we determine that this revised proposed 4(d) special rule is appropriate following public comment. Any final action resulting from the proposed rules will be based on the best scientific and commercial data available and be as accurate and as effective as possible. Therefore, we request comments or information from other concerned governmental agencies, Native American tribes, the scientific community, industry, general public, and other interested parties concerning the proposed listing rule and revised proposed 4(d) special rule. We particularly seek comments regarding:

(1) The historical and current status and distribution of the lesser prairie-chicken, its biology and ecology, specific threats (or lack thereof) and regulations that may be addressing those threats and ongoing conservation measures for the species and its habitat.

(2) Information relevant to the factors that are the basis for making a listing determination for a species under section 4(a) of the Act, which are:

- (a) The present or threatened destruction, modification, or curtailment of the species' habitat or range;
- (b) Overutilization for commercial, recreational, scientific, or educational purposes;
- (c) Disease or predation;
- (d) The inadequacy of existing regulatory mechanisms; or
- (e) Other natural or manmade factors affecting its continued existence and threats to the species or its habitat.

(3) Application of the Lesser Prairie-Chicken Interstate Working Group's final Lesser Prairie-Chicken Range-Wide Conservation Plan to our determination of status under section 4(a)(1) of the Act, particularly comments or information to help us assess the certainty that the plan will be effective in conserving the lesser prairie-chicken and will be implemented.

(4) Which areas would be appropriate as critical habitat for the species and why areas should or should not be proposed for designation as critical habitat, including whether any threats to the species from human activity would be expected to increase due to the designation and whether that increase in threat would outweigh the benefit of designation such that the designation of critical habitat may not be prudent.

(5) Specific information on:

- (a) The amount and distribution of habitat for the lesser prairie-chicken;

(b) What may constitute “physical or biological features essential to the conservation of the species,” within the geographical range currently occupied by the species;

(c) Where these features are currently found;

(d) Whether any of these features may require special management considerations or protection;

(e) What areas, that were occupied at the time of listing (or are currently occupied) and that contain features essential to the conservation of the species, should be included in the designation and why; and

(f) What areas not occupied at the time of listing are essential for the conservation of the species and why.

(6) Information on the projected and reasonably likely impacts of climate change on the lesser prairie-chicken and its habitat.

(7) Whether measures outlined in this revised proposed 4(d) special rule are necessary and advisable for the conservation and management of the lesser prairie-chicken.

(8) Whether the provision related to the continuation of routine agricultural practices on existing cultivated lands should more clearly differentiate between row crop agriculture and other cropped areas, such as managed grasslands, forage, or other untilled crops.

(9) Whether the provision related to the continuation of routine agricultural practices on existing cultivated lands should be revised to include spatial or temporal restrictions or deferments.

(10) Additional provisions the Service may wish to consider for a 4(d) special rule in order to conserve, recover, and manage the lesser prairie-chicken.

If you previously submitted comments or information, please do not resubmit them. We have incorporated them into the public record and will fully consider them. We will consider all comments and information received during our preparation of a final determination on the status of the species and the 4(d) special rule. Accordingly, the final decision may differ from this proposal.

Please note that comments merely stating support for or opposition to the actions under consideration without providing supporting information, although noted, will not be considered in making a determination, as section 4(b)(1)(A) of the Act directs that determinations as to whether any species is a threatened or endangered species must be made “solely on the basis of the best scientific and commercial data available.”

You may submit your comments and materials concerning this revised proposed rule by one of the methods listed in **ADDRESSES**. We request that you send comments **only** by the methods described in **ADDRESSES**.

If you submit information via <http://www.regulations.gov>, your entire submission—including any personal identifying information—will be posted on the website. If your submission is made via a hardcopy that includes personal identifying information, you may request at the top of your document that we withhold this information from public review. However, we cannot guarantee that we will be able to do so. We will post all hardcopy submissions on <http://www.regulations.gov>. Please include sufficient information with your comments to allow us to verify any scientific or commercial information you include.

Comments and materials we receive, as well as supporting documentation we used in preparing this revised proposed rule, will be available for public inspection on <http://www.regulations.gov>, or by appointment, during normal business hours, at the U.S. Fish and Wildlife Service, Oklahoma Ecological Services Field Office (see **FOR FURTHER INFORMATION CONTACT**).

Background

On December 11, 2012, we published a proposed rule (77 FR 73827) to list the lesser prairie-chicken as a threatened species under the Act. On May 6, 2013, we published a proposed special rule (78 FR 26302) under authority of section 4(d) of the Act that provides measures that are necessary and advisable to provide for the conservation of the lesser prairie-chicken. We then published in the **Federal Register** on December 11, 2013 (78 FR 75306), a proposed revised 4(d) special rule to outline the

prohibitions, and exceptions to those prohibitions, necessary and advisable for the conservation of the lesser prairie-chicken. We are now reopening the comment period on the proposed rules to allow the public the opportunity to comment on the final Lesser Prairie-Chicken Range-Wide Conservation Plan, which was not available on the websites as stated in our December 11, 2013, **Federal Register** document.

Since the time of the proposed listing rule and proposed 4(d) special rule, the Lesser Prairie-Chicken Interstate Working Group, in association with the Western Association of Fish and Wildlife Agencies, finalized the Lesser Prairie-Chicken Range-Wide Conservation Plan. On October 23, 2013, the Service announced our endorsement of the Lesser Prairie-Chicken Range-Wide Conservation Plan (dated October 2013) as a comprehensive conservation program that reflects a sound conservation design and strategy that, when implemented, will provide a net conservation benefit to the lesser prairie-chicken. We would like to consider the conservation measures in this plan in our final listing determination for the lesser prairie-chicken. As such, we are reopening the comment period to allow the public an opportunity to provide comment on the October 2013 plan as it applies to our determination of status under section 4(a)(1) of the Act, particularly comments or information to help us assess the certainty that the October 2013 Lesser Prairie-Chicken Range-Wide Conservation Plan will be effective in conserving the lesser prairie-chicken and will be implemented. The final plan is available on the Internet in Docket No. FWS-R2-ES-2012-0071 at <http://www.regulations.gov>.

Authority

The authority for this action is the Endangered Species Act of 1973, as amended (16 U.S.C. 1531 *et seq.*).

Dated: January 24, 2014.

Daniel M. Ashe,

Director, U.S. Fish and Wildlife Service.

Billing Code 4310–55

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